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| APPLICATION NO.   | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|-------------|----------------------|---------------------|------------------|
| 09/957,459  | 09/21/2001  | Warren Roach         | 166.0001            | 2504             |
| 25534   | 7590        | 05/06/2004           | EXAMINER            |                  |
| CAHN & SAMUELS LLP<br>2000 P STREET NW<br>SUITE 200<br>WASHINGTON, DC 20036 |             |                      | TO, BAOQUOC N       |                  |
|   |             |                      | ART UNIT            | PAPER NUMBER     |
|   |             |                      | 2172                | 8                |
| DATE MAILED: 05/06/2004   |             |                      |                     |                  |

Please find below and/or attached an Office communication concerning this application or proceeding.

|                              |                        |  |  |
|------------------------------|------------------------|--|--|
| <b>Office Action Summary</b> | <b>Application No.</b> | <b>Applicant(s)</b>  |  |
|                              | 09/957,459             | ROACH ET AL.<br> |  |
|                              | <b>Examiner</b>        | <b>Art Unit</b>  |  |
|                              | Baoquoc N To           | 2172   |  |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

1) Responsive to communication(s) filed on 18 February 2004.

2a) This action is FINAL.                    2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

4) Claim(s) 1-18 and 34-57 is/are pending in the application.

4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5) Claim(s) \_\_\_\_\_ is/are allowed.

6) Claim(s) 1-18 and 34-57 is/are rejected.

7) Claim(s) \_\_\_\_\_ is/are objected to.

8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All    b) Some \* c) None of:

1. Certified copies of the priority documents have been received.
2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

1) Notice of References Cited (PTO-892)

2) Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.

4) Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.

5) Notice of Informal Patent Application (PTO-152)

6) Other: \_\_\_\_\_.

### **DETAILED ACTION**

1. Claims 19-33 are canceled and claims 52-57 are newly added claims. Claims 1-18 and 35-57 are pending in this application.

#### ***Response to Arguments***

2. Applicant's arguments with respect to claim 1 have been considered but are moot in view of the new ground(s) of rejection.

#### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

3. Claims 1-18 and 52-57 are rejected under 35 U.S.C. 103(a) as being unpatentable over Koshisaka et al. (US. Patent No. 6,629,109).

Regarding on claims 1 and 16-18, Koshisaka teaches a computing device, a method for archiving files comprising:

Detecting (detect) an instruction from a resident program to perform an operating on an operating file (col. 2, lines 1-14); and

Koshisaka does not explicitly teach capturing the operating file temporally proximate to the operation being performed on the operating file, responsive to the

detection of the instruction. However, Koshisaka teaches “the file manipulation monitoring section 201 constantly monitors API (Application Program Interface) commands which are outputted by the application 1 to the operating system 3 and thereby detects the file manipulation which is (going to be) executed by the application 1...In the case wherein the file manipulating is “file deletion” (“Yes” in the step S2), the file manipulation monitoring section 21 instructs the processing section 22 to store a “deleted file name” and a corresponding “backup file name” in the deleted file name memory section 23 (step 23). The deleted file name is the name of the file (to be) deleted by the application 1.” (col. 6, lines 35-54). This teaches the monitoring program send out the instruction to save the deleted file to the backup memory right at the time the program can execute the delete application. These functionalities in Koshisaka and the current application are the same. Therefore, it would have been obvious to one ordinary skill in the art at the time of the invention was made to modify the teaching of capturing the delete file to the back up memory as taught in Koshisaka in order to allow the user to retrieve latter on when needed.

Regarding on claim 2, Koshisaka teaches capturing the operating file includes creating an archive file and storing the archive file in a storage location (col. 6, lines 35-45).

Regarding on claim 3, Koshisaka teaches the archive file includes copy of the operating file (col. 6, lines 35-45).

Regarding on claim 4, Koshisaka teaches the archive files includes portions of the operating file (col. 6, lines 35-45).

Regarding on claim 5, Koshisaka teaches the archive file includes pointers directed to one or more storage locations, wherein each of the one or more second storage locations contains at least a portion of the operating file (col. 6, lines 35-45).

Regarding on claim 6, Koshisaka teaches capturing the file includes saving the archive file prior to the operation being performed on the operating file (col. 6, lines 35-45).

Regarding on claim 7, Koshisaka teaches the file includes saving the archive file subsequent to detecting the instruction to perform the operation (col. 5, lines 50-65).

Regarding on claim 8, Koshisaka teaches capturing the file includes saving the archive file subsequent to the operation being performed on the operating file (col. 5, lines 50-65).

Regarding on claim 9, Koshisaka teaches the storage location includes a buffer (col. 5, lines 55-65).

Regarding on claim 10, Koshisaka teaches the first storage location includes a storage device (col. 6, lines 32-65).

Regarding on claim 11, Koshisaka teaches the storage device includes at least one of a group comprising a magnetic storage medium, an optical storage medium, and a solid state storage device (col. 6, lines 32-65).

Regarding on claim 12, Koshisaka teaches the storage location includes a directory disposed on said storage device (col. 6, lines 32-65).

Regarding on claim 13, Koshisaka teaches determining whether the operating file has previously been captured prior to capturing the file (col. 6, lines 32-65).

Regarding on claim 14, Koshisaka teaches determining whether the operating file has previously been captured prior to capturing the file (col. 6, lines 32-65).

Regarding on claim 15, Koshisaka teaches the operation causes a change in the operating file (col. 5, lines 32-65).

Regarding on claim 52, Koshisaka teaches capturing step occurs only if a match to a defined condition has been determined.

Regarding on claim 53, Koshisaka teaches defined condition includes at least one of determining whether the operating file has previously been archived and determining whether the operating file has been selected for protection.

Regarding on claim 54, Koshisaka teaches in a computing device, a method for archiving files, comprising:

Detecting (detect) an instruction from a resident program to perform an operation on an operating file (col. 6, lines 32-34); and

Koshisaka does not explicitly teach capturing the operating file just before or just after the operation being performed on the operating file, responsive to the detection of the instruction. However, Kshisaka teaches “the file manipulation monitoring section 201 constantly monitors API (Application Program Interface) commands which are outputted by the application 1 to the operating system 3 and thereby detects the file manipulation which is (going to be) executed by the application 1...In the case wherein the file manipulating is “file deletion” (“Yes” in the step S2), the file manipulation monitoring section 21 instructs the processing section 22 to store a “deleted file name” and a corresponding “backup file name” in the deleted file name memory section 23

(step 23). The deleted file name is the name of the file (to be) deleted by the application 1." (col. 6, lines 35-54). This teaches the monitoring program send out the instruction to save the deleted file to the backup memory before the program can execute the delete application. These functionalities in Koshisaka and the current application are the same. Therefore, it would have been obvious to one ordinary skill in the art at the time of the invention was made to modify the teaching of capturing the delete file to the back up memory as taught in Koshisaka in order to allow the user to retrieve latter on when needed.

Regarding on claim 55, Koshisaka teaches capturing occurs an instant before or an instant after the operation is performed on the operating file (col. 6, lines 35-54).

Regarding on claim 56, Koshisaka teaches the operating system file is a system file (col. 6, lines 10-30).

Regarding on claim 57, Koshisaka teaches the operating file is a user file (col. 6, lines 10-15).

4. Claims 34-51 are rejected under 35 U.S.C. 103(a) as being unpatentable over Koshisaka et al. (US. Patent No. 6,629,109 B1) in view of Schmidt et al. (US. Patent No. 6,535,894).

Regarding on claim 34, Koshisaka teaches in a computing device, a method for archiving files comprising:

Detecting (detect) an instruction from a resident program to perform a operation on a operating file (col. 6, lines 33-35);

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Creating an archive file from the operating file and storing the archive file in a first storage location temporally proximate to the operation being performed on the operating file and responsive to detecting the instruction (saving the delete file before the program execute the application) (col. 6, lines 35-45);

Koshisaka does not explicitly teach searching the first storage location for the archive file responsive to the occurrence of a first event; and moving the archive file from the first storage location to the second storage location responsive to a second event. However, Schmidt teaches, "if the browser cannot locate the specified class in the archive file 410, it searches at the location specified by the CODE BASE parameter" (col. 8, lines 18-21). This teaches searching the archive files from the storage location. In addition, Schmidt teaches, "the original archive file is created, transmitted to client computer system 102 (see FIG. 1), and stored at client computer system" (col. 10, lines 1-3). This teaches archive file is transmitted to the client as the second storage location. Therefore, it would have been obvious to one ordinary skill in the art at the time of the invention was made to include the searching and moving the archive files to the clients from Schmidt into Koshisaka in order to provide backup and restore files when the primary files are corrupted.

Regarding on claim 35, Koshisaka teaches storing the archive file includes storing the archive file prior to the operation being performed on the operating file (col. 6, lines 35-45).

Regarding on claim 36, Koshisaka teaches storing the archive file includes storing the archive file prior to the operation being performed on the operating file and subsequent to the operation being performed on the archive file (col. 6, lines 35-45).

Regarding on claim 37, Koshisaka teaches storing the archive file includes storing the archive file subsequent to the operation being performed on the operating file (col. 6, lines 35-45).

Regarding on claim 38, Koshisaka teaches the first storage location includes a buffer (RAM) (col. 5, lines 60-65).

Regarding on claim 39, Koshisaka teaches the first event includes a message from a program resident on the computing device (col. 5, lines 60-65).

Regarding on claim 40, Koshisaka teaches the first event includes a message from a program resident on the computing device (col. 5, lines 60-65).

Regarding on claim 41, Koshisaka teaches the second event includes a message from a timer (col. 5, lines 60-65).

Regarding on claim 42, Koshisaka teaches the second event includes a message indicating when the second storage location is available (col. 5, lines 60-65).

Regarding on claim 43, Koshisaka teaches the second storage location is an output buffer(RAM) (col. 5, lines 60-65).

Regarding on claims 44 and 49-51, Koshisaka teaches after detecting the files, updating a database to indicate that the detected files are located in the first storage location (col. 5, lines 60-65);

Determining a destination for each of the detected files (col. 5, lines 60-65);

Moving detected files from the first storage location to an intermediate storage location (col. 5, lines 60-65);

Updating the database to indicate that the detected files are located in the intermediate storage location (col. 5, lines 60-65); and

After moving the file to the second storage location, updating the database to indicate that the files are located in the second storage location (col. 2, lines 5-15).

Regarding on claim 45, Koshisaka teaches the second storage location includes a personal attached storage device (col. 5, lines 50-65).

Regarding on claim 46, Koshisaka teaches the second storage location includes a network attached storage device (col. 6, lines 5-30).

Regarding on claim 47, Koshisaka teaches the second storage device includes a peer-to-peer storage device (col. 6, lines 35-45).

Regarding on claim 48, Koshisaka teaches the second storage location includes an Internet storage area network (col. 6, lines 35-45).

### ***Conclusion***

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Baoquoc N. To whose telephone number is (703) 305-1949 or via e-mail BaoquocN.To@uspto.gov. The examiner can normally be reached on Monday-Friday: 8:00 AM – 4:30 PM, EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Breene can be reached at (703) 305-9790.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 305-3900.

Any response to this action should be mailed to:

Commissioner of Patents and Trademarks  
Washington, D.C. 20231.

The fax numbers for the organization where this application or proceeding is assigned are as follow:

(703) 872-9306 [Official Communication]

Hand-delivered responses should be brought to:

Crystal Park II  
2121 Crystal Drive  
Arlington, VA 22202  
Fourth Floor (Receptionist).

Baoquoc N. To

April 29, 2004



JEAN M. CORNELIUS  
PRIMARY EXAMINER